

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL CARL DEAKINS,

Defendant and Appellant.

B204141

(Los Angeles County
Super. Ct. No. GA068933)

APPEAL from a judgment of the Superior Court of Los Angeles County, Zaven V. Sinanian, Judge. Affirmed.

Judith Vitek, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Scott A. Taryle, Supervising Deputy Attorney General, Nima Razfar, Deputy Attorney General, for Plaintiff and Respondent.

Michael Deakins appeals from the judgment entered following a jury trial in which he was convicted of robbery, burglary, and possession of methamphetamine, and a bifurcated court trial in which it was found that he had sustained two prior felony convictions, one of which qualified under the “Three Strikes” law. Defendant was sentenced to a term of 14 years 4 months. He contends that the eyewitness identification evidence was insufficient to support his convictions of robbery and burglary. We affirm.

BACKGROUND

Around 7:50 p.m. on February 27, 2007, Adriana Roman returned to her locked car after withdrawing cash from an automatic teller machine at the Bank of America on East Colorado in Pasadena. When Roman entered the car she was confronted by defendant, who had been hiding in the back seat. Defendant, who spoke in both English and Spanish, grabbed Roman’s hand and demanded money. Roman, who testified through a Spanish language interpreter, described defendant as being 20 to 26 years old, tall and thin, and wearing a black sweatshirt with a hood. Roman gave defendant \$100, after which defendant got out of the car. As defendant walked away, he pulled off his hood, revealing that his head had been shaved bald. Roman also noticed that the back window of her car had been broken. Roman contacted the police.

About 30 minutes after the incident, Pasadena Police Officer John Calderon showed Roman a six-pack photographic lineup, from which she identified defendant. About two hours after the incident, Roman was taken to defendant’s location and identified him in a field show-up. She also identified defendant at trial. Roman was nervous when she made both of her pretrial identifications.

Officer Calderon testified that he went to defendant’s Pasadena apartment after Roman made her photographic identification. When defendant came to the door, he threw aside a baggie that was later determined to contain methamphetamine. More methamphetamine was found in defendant’s pants pocket. Inside the apartment, Calderon found a black hooded sweatshirt.

Several witnesses testified for the defense. Four friends testified that they were with defendant in his apartment at the time of the robbery. One of these witnesses further

testified that defendant spoke only a few words of Spanish that are in common usage and that it would take around 50 minutes to walk from the Bank of America to defendant's apartment. Defendant's parents testified that defendant does not speak Spanish and does not own a car. An eyewitness identification expert testified regarding various factors affecting eyewitness identification, including how trauma can cause a witness to narrow attention to certain details and that there is no significant relationship between confidence and accuracy in eyewitness identification.

DISCUSSION

Focusing on defendant's appearance in a booking photograph (showing closely cropped hair) and physical descriptions indicating defendant was older and heavier than described by Roman, and further relying on the strength of alibi testimony, on testimony regarding defendant's inability to converse in Spanish, and on the weaknesses inherent in eyewitness identification as noted by the defense expert, defendant contends that the evidence was insufficient to support Roman's identification testimony and therefore his convictions of robbery and burglary. We disagree.

It is fundamental that evidence is "substantial" where, upon review of the entire record, it is found to be reasonable, credible and of solid value. (*Jackson v. Virginia* (1979) 443 U.S. 307 [99 S.Ct. 2781]; *People v. Johnson* (1980) 26 Cal.3d 557.) "In making this determination, the reviewing court must consider the evidence in a light most favorable to the judgment and presume the existence of every fact the trier could reasonably deduce from the evidence in support of the judgment." (*People v. Mincey* (1992) 2 Cal.4th 408, 432.) "“Although an appellate court will not uphold a judgment or verdict based upon evidence inherently improbable, testimony which merely discloses unusual circumstances does not come within that category. [Citation.] To warrant the rejection of the statements given by a witness who has been believed by a trial court, there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions. . . .”" (*People v. Mayberry* (1975) 15 Cal.3d 143, 150.)

Here, as in *In re Gustavo M.* (1989) 214 Cal.App.3d 1485 at page 1497, ““there is in the record the inescapable fact of in-court eyewitness identification. That alone is sufficient to sustain the conviction.’ [Citation.] Next, when the circumstances surrounding the identification and its weight are explored at length at trial, where eyewitness identification is believed by the trier of fact, that determination is binding on the reviewing court. [Citation.] Third, the evidence of a single witness is sufficient for proof of any fact. [Citations.]” Or, to paraphrase *People v. Young* (2005) 34 Cal.4th 1149 at page 1181, “No inherent improbability appears in the identification testimony of [Roman], and nothing about the evidence shows the [robbery] would have been physically impossible for defendant to perpetrate.”

Based on the foregoing, defendant’s contention must be rejected.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

MALLANO, P. J.

We concur:

ROTHSCHILD, J.

WEISBERG, J.*

* Retired Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.